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8 **IN THE UNITED STATES DISTRICT COURT**
9 **FOR THE EASTERN DISTRICT OF CALIFORNIA**
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11 ORION DOUGLAS MEMMOTT,

12 Plaintiff,

13 v.

14 DEPARTMENT OF SOCIAL SERVICES,
15 LINCOLN COUNTY, et al.,

16 Defendants.
17

No. 2:23-CV-2383-DAD-DMC

FINDINGS AND RECOMMENDATIONS

18 Plaintiff, who is proceeding pro se, brings this civil action. On January 30, 2025,
19 the Court issued an order determining that service of the complaint is appropriate. That order
20 required Plaintiff to submit to the United States Marshal, within 15 days of the date of service of
21 the order, a completed summons and copies of the complaint, and file a statement with the Court
22 within 20 days that said documents have been submitted. Plaintiff was warned that failure to
23 comply may result in dismissal of this action for lack of prosecution and failure to comply with
24 court rules and orders. See Local Rule 110. More than 20 days have elapsed and Plaintiff has not
25 complied.

26 The Court must weigh five factors before imposing the harsh sanction of dismissal.
27 See Bautista v. Los Angeles County, 216 F.3d 837, 841 (9th Cir. 2000); Malone v. U.S. Postal
28 Service, 833 F.2d 128, 130 (9th Cir. 1987). Those factors are: (1) the public's interest in

1 expeditious resolution of litigation; (2) the court's need to manage its own docket; (3) the risk of
2 prejudice to opposing parties; (4) the public policy favoring disposition of cases on their merits;
3 and (5) the availability of less drastic sanctions. See id.; see also Ghazali v. Moran, 46 F.3d 52,
4 53 (9th Cir. 1995) (per curiam). A warning that the action may be dismissed as an appropriate
5 sanction is considered a less drastic alternative sufficient to satisfy the last factor. See Malone,
6 833 F.2d at 132-33 & n.1. The sanction of dismissal for lack of prosecution is appropriate where
7 there has been unreasonable delay. See Henderson v. Duncan, 779 F.2d 1421, 1423 (9th Cir.
8 1986). Dismissal has also been held to be an appropriate sanction for failure to comply with an
9 order to file an amended complaint. See Ferdik v. Bonzelet, 963 F.2d 1258, 1260-61 (9th Cir.
10 1992).

11 Having considered these factors, and in light of Plaintiff's failure to prosecute this
12 case as directed, the Court finds that dismissal of this action is appropriate.

13 Based on the foregoing, the undersigned recommends that this action be dismissed,
14 without prejudice, for lack of prosecution and failure to comply with court rules and orders.

15 These findings and recommendations are submitted to the United States District
16 Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within 14 days
17 after being served with these findings and recommendations, any party may file written
18 objections with the court. Responses to objections shall be filed within 14 days after service of
19 objections. Failure to file objections within the specified time may waive the right to appeal. See
20 Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

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22 Dated: March 25, 2025



23 DENNIS M. COTA
24 UNITED STATES MAGISTRATE JUDGE
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